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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,815	01/31/2001	William T. Carpenter	P01426US2	8585

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EXAMINER

KRECK, JOHN J

ART UNIT PAPER NUMBER

3673

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/773,815

Applicant(s)

CARPENTER, WILLIAM T.

Examiner

John Kreck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. In view of the appeal brief filed on 6/12/03, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 11-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Independent claim 11 calls for a step of "calculating a moment of stability". The specification fails to disclose any equations or methods to perform such a calculating step. The specification also fails to disclose how the liquid would be

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captured and placed in predetermined locations. Would pumps be used? How many pumps would be required? How long would the process take? The specification also fails to disclose how much mass would be required to make an appreciable change in the axis of rotation. Absence of supporting disclosure would require undue experimentation for one skilled in the art to carry out the claimed invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chao (Anthropogenic impact on global geodynamics due to reservoir water impoundment) in view of White (Pole Shift: predictions and prophecies of the ultimate disaster); and Brown (Cataclysms of the Earth)

Chao teaches that impoundment of water in large reservoirs has changed the character of rotation of the Earth's axis, including shifting the pole (Introduction, third paragraph). Chao further teaches the steps of measuring the mass of the planet, determining the center of mass of the planet, and characterizing the axis of rotation of the planet.

Chao fails to explicitly disclose the steps of selecting a desired character of rotation; calculating a moment of stability; determining a position and mass of a compensating substance; and positioning the mass.

White teaches that a pole shift is "the ultimate disaster" and further teaches the desirability of preventing pole shift (see pages 81 and 181). The desirability of preventing pole shift is also taught by Brown (see "An Exhortation" page 152), who also teaches that the prevention is an "engineering problem" (see page 153)

In light of the combined teaching of Chao, White, and Brown, it would have been obvious to one of ordinary skill in the art at the time of the invention to have measured the mass of a planet, determined the center of mass, characterized the axis of rotation, selected a desired character of rotation, calculated a moment of stability required to cause the desired character of rotation, determined a position of and mass of a compensating substance sufficient to effect the moment of stability, and positioned the mass in the position, as called for in claim 11, in order to correct the alterations to the axis of rotation characterized by Chao and to prevent "ultimate disaster".

With regards to claim 12, see page 3531, col. 2, it would have been further obvious to one of ordinary skill in the art at the time of the invention to have the position of the compensating substance in an underground cavity in order to correct the alterations to the axis of rotation characterized by Chao.

With regards to claim 13, Chao teaches the aboveground cavity (reservoir), thus it would have been further obvious to one of ordinary skill in the art at the time of the

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invention to have the position of the compensating substance in an aboveground cavity in order to correct the alterations to the axis of rotation characterized by Chao.

With regards to claim 14, Brown teaches the moving solid substance (ice) it would have been further obvious to one of ordinary skill in the art at the time of the invention to have the compensating substance a solid, because solid substances are easier to control, in order to correct the alterations to the axis of rotation characterized by Chao.

With regards to claim 15-17, Chao teaches the liquid, thus it would have been further obvious to one of ordinary skill in the art at the time of the invention to have the compensating substance a liquid in order to correct the alterations to the axis of rotation characterized by Chao.

With regards to claim 18-20, Chao teaches the liquid is water, thus it would have been further obvious to one of ordinary skill in the art at the time of the invention to have the compensating substance being water in order to correct the alterations to the axis of rotation characterized by Chao.

Response to Arguments

4. Applicant's arguments with respect to claims 11-20 have been considered but are moot in view of the new ground(s) of rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is (703)308-2725. The examiner can normally be reached on M-F 6:00 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703)308-2978. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9326 for regular communications and (703)872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-4177.

JJK
August 11, 2003



HEATHER SHACKELFORD
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